

ASSEMBLY BILL

No. 1602

Introduced by Assembly Member Bates

February 21, 2003

An act to add Article 4.2 (commencing with Section 53738) to Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, and to amend Sections 96.1 and 96.5 of, and to add Section 96.51 to, the Revenue and Taxation Code, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1602, as introduced, Bates. Local government finance.

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to the county, cities, and special districts pursuant to these general allocation requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, that the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that

county for allocation to school districts, community college districts, and the county office of education.

This bill would allow a qualified county, as defined, in a qualified fiscal year, as defined, to apply to the Governor to request that local agencies in that county be permitted to negotiate the allocation of that portion of the annual tax increment that exceeds 2% of total property tax revenues allocated in the county for the immediately preceding fiscal year. This bill would, in the event that the application is approved but the negotiations do not result in an agreement, provide for a revenue allocation determination by an allocation board, as provided, and the review of that allocation determination at least every 5 years. This bill would also specify, for the same county in the same qualified fiscal year, that an amount of property tax revenue, equal to 50% of the total amount of property tax revenue collected in that qualified fiscal year, be allocated among school entities in the qualified county, with the balance of revenues being allocated among local agencies in the qualified county. This bill also would provide that school entities be reimbursed by the state for any revenue losses resulting from the bill, and provide that an amount of property tax revenue that is equal to 20% of these reimbursements be allocated among the county and the cities in the qualified county to meet affordable housing goals, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Article 4.2 (commencing with Section 53738)
2 is added to Chapter 4 of Part 1 of Division 2 of Title 5 of the
3 Government Code, to read:

4

5 Article 4.2. Local Agency Service Responsibility and Annual
6 Increment Financing

7

8 53738. The Legislature finds and declares that it is in the best
9 interest of each local agency to have the most cost-effective and
10 efficient method of providing services to its residents. The
11 Legislature further finds and declares that the most effective
12 method of achieving this goal is for each county, and all of the
13 cities and special districts in that county, to negotiate among



1 themselves a formal agreement providing for the allocation of
2 certain property tax revenues.

3 53738.1. (a) (1) In a qualified fiscal year, the board of
4 supervisors of a qualified county may apply to the Governor, in the
5 form and manner prescribed by the Governor, to request that the
6 county be permitted to negotiate, in accordance with this article,
7 the method in which the designated increment portion, as defined
8 in Section 96.51 of the Revenue and Taxation Code, is allocated
9 among local agencies.

10 (2) The Governor may approve a qualified county's application
11 only if the housing element of the general plan of the county and
12 each city in the county has been found by the Department of
13 Housing and Community Development to be in substantial
14 compliance with Article 10.6 (commencing with Section 65580)
15 of Chapter 3 of Title 7.

16 (b) (1) Commencing on November 15 of a qualified fiscal
17 year, the governing board of each local agency in a qualified
18 county, whose application has been approved by the Governor
19 pursuant to subdivision (a), shall negotiate the allocation of those
20 property tax revenues described in paragraph (3) of subdivision (a)
21 of Section 96.51 of the Revenue and Taxation Code. If a special
22 district governing board has the same membership as the
23 governing board of the qualified county or of a city, the governing
24 board of that county or city shall act on behalf of the district in the
25 negotiation process. Any agreement arising from these
26 negotiations shall be operative immediately, provided that the
27 agreement has been ratified, on or before March 31 of that
28 qualified fiscal year, by a majority of the entire membership of the
29 governing board of each local agency. The agreement shall be
30 operative for that qualified fiscal year and any subsequent
31 qualified fiscal year, but shall become inoperative for any fiscal
32 year that is not a qualified fiscal year.

33 (2) Any agreement entered into under this subdivision shall
34 include provisions that provide for the initial and subsequent
35 renegotiation of that agreement at regular intervals.

36 (c) (1) If an agreement is not reached pursuant to the
37 negotiation process described in subdivision (b) by March 31 of
38 the first qualified fiscal year in which the negotiations are initiated,
39 the allocation of those property tax revenues described in
40 paragraph (3) of subdivision (a) of Section 96.51 of the Revenue

1 and Taxation Code shall be determined with the approval of a
2 majority of the entire membership of the allocation board whose
3 membership was determined as described in subdivision (d).

4 (2) (A) An allocation board required to be established under
5 paragraph (1) shall make a determination as to the allocation of
6 those property tax revenues described in paragraph (3) of
7 subdivision (a) of Section 96.51 of the Revenue and Taxation Code
8 on or before May 1 of the first qualified fiscal year in which the
9 agreement is to be operative. The allocation determination made
10 by the board shall be reviewed, and may be revised, at least every
11 five years by a similarly composed, successor allocation board.
12 Any revision made by a successor allocation board shall be
13 approved by a majority of the entire membership of that board on
14 or before May 1 of the qualified fiscal year in which that board is
15 convened.

16 (B) An allocation board's determination shall be operative for
17 that qualified fiscal year and any subsequent qualified fiscal year,
18 but shall become inoperative for any fiscal year that is not a
19 qualified fiscal year.

20 (C) Notwithstanding any other provision of law, if the
21 allocation board of a qualified county cannot agree on the
22 allocation of those property tax revenues described in paragraph
23 (3) of subdivision (a) of Section 96.51 of the Revenue and
24 Taxation Code on or before May 1 of the first qualified fiscal year
25 in which the allocation determination was to be operative, then all
26 property tax revenues in that county shall be allocated as otherwise
27 required by law.

28 (D) All proceedings of an allocation board or successor
29 allocation board shall be conducted in a public hearing, and all
30 determinations of any such board shall be made in writing on the
31 public record.

32 (d) For the purposes of this section and Section 96.51 of the
33 Revenue and Taxation Code:

34 (1) "Qualified county" means a county in which all of the
35 following conditions are met:

36 (A) A majority of the entire membership of the board of
37 supervisors of the county enacts a written resolution to participate
38 in the negotiations described in this section.

39 (B) A majority of the entire membership of each governing
40 board of two-thirds of the cities in the county that represent

1 two-thirds of the population of the incorporated areas of that
2 county enacts a written resolution to participate in the negotiations
3 described in this section.

4 (C) A majority of the entire membership of each governing
5 board of two-thirds of the independent special districts in the
6 county that represent at least two-thirds of the total population of
7 those portions of the county that are within the jurisdiction of an
8 independent special district enacts a written resolution to
9 participate in the negotiations described in this section.

10 (D) (i) A majority of the entire membership of the board of
11 supervisors of the county enacts a written resolution that specifies
12 the membership of the allocation board described in subdivision
13 (c).

14 (ii) A majority of the entire membership of each governing
15 board of two-thirds of the cities in the county that represent
16 two-thirds of the population of the incorporated areas of that
17 county enacts a written resolution that specifies the same
18 membership of the allocation board described in clause (i).

19 (iii) A majority of the entire membership of each governing
20 board of two-thirds of the independent special districts in the
21 county that represent at least two-thirds of the total population of
22 those portions of the county that are within the jurisdiction of an
23 independent special district enacts a written resolution that
24 specifies the same membership of the allocation board described
25 in clause (i).

26 (2) “Qualified fiscal year” means a fiscal year in which the
27 Director of Finance has determined that the conditions specified
28 in subdivisions (a) and (b) of Section 6051.45 of the Revenue and
29 Taxation Code have been met.

30 (3) “Local agency” has the same definition as specified in
31 Section 95 of the Revenue and Taxation Code.

32 (4) “Independent special district” means a special district
33 having a legislative body all of whose members are elected by
34 registered voters or landowners within the district, or whose
35 members are appointed to fixed terms, but does not include any
36 special district having a legislative body consisting, in whole or in
37 part, of ex officio members who are officers of a county or another
38 local agency or who are appointees of those officers other than
39 those who are appointed to fixed terms.

1 SEC. 2. Section 96.1 of the Revenue and Taxation Code is
2 amended to read:

3 96.1. (a) Except as otherwise provided in *Section 96.51*,
4 Article 3 (commencing with Section 97), and in Article 4
5 (commencing with Section 98), for the 1980–81 fiscal year and
6 each fiscal year thereafter, property tax revenues shall be
7 apportioned to each jurisdiction pursuant to this section and
8 Section 96.2 by the county auditor, subject to allocation and
9 payment of funds as provided for in subdivision (b) of Section
10 33670 of the Health and Safety Code, to each jurisdiction in the
11 following manner:

12 (1) For each tax rate area, each jurisdiction shall be allocated
13 an amount of property tax revenue equal to the amount of property
14 tax revenue allocated pursuant to this chapter to each jurisdiction
15 in the prior fiscal year, modified by any adjustments required by
16 Section 99 or 99.2.

17 (2) The difference between the total amount of property tax
18 revenue and the amounts allocated pursuant to paragraph (1) shall
19 be allocated pursuant to Section 96.5, and shall be known as the
20 “annual tax increment.”

21 (3) For purposes of this section, the amount of property tax
22 revenue referred to in paragraph (1) shall not include amounts
23 generated by the increased assessments under Chapter 3.5
24 (commencing with Section 75).

25 (b) Any allocation of property tax revenue that was subjected
26 to a prior completed audit by the Controller, pursuant to the
27 requirements of Section 12468 of the Government Code, where all
28 findings have been resolved, shall be deemed correct.

29 (c) (1) Guidelines for legislation implementation issued and
30 determined necessary by the State Association of County
31 Auditors, and when adopted as regulations by either the Controller
32 or the Department of Finance pursuant to Chapter 3.5
33 (commencing with Section 11340) of Part 1 of Division 3 of Title
34 2 of the Government Code, shall be considered an authoritative
35 source deemed correct until some future clarification by
36 legislation or court decision.

37 (2) If a county auditor knowingly does not follow the
38 guidelines referred to in paragraph (1), that county auditor shall
39 inform the Controller of the reason or reasons for not following the
40 guidelines. If the Controller disagrees with the stated reason or



1 reasons for not following the guidelines, the provisions of
2 paragraph (3) do not apply.

3 (3) If, by audit begun on or after July 1, 2001, or discovery by
4 an entity on or after July 1, 2001, it is determined that an allocation
5 method is required to be adjusted and a reallocation is required for
6 previous fiscal years, the cumulative reallocation or adjustment
7 may not exceed 1 percent of the total amount levied at a 1 percent
8 rate of the current year's original secured tax roll. The reallocation
9 shall be completed in equal increments within the following three
10 fiscal years, or as negotiated with the Controller in the case of
11 reallocation to the Educational Revenue Augmentation Fund or
12 school entities.

13 (4) If it is determined that an allocation method is required to
14 be adjusted as provided in paragraph (3), the county auditor shall,
15 in the fiscal year following the fiscal year in which this
16 determination is made, correct the allocation method in
17 accordance with statute.

18 SEC. 3. Section 96.5 of the Revenue and Taxation Code is
19 amended to read:

20 96.5. The difference between the total amount of property tax
21 revenue computed each year using the equalized assessment roll
22 and the sum of the amounts allocated pursuant to subdivision (a)
23 of Section 96.1 shall be known and may be cited as the annual tax
24 increment, and shall be allocated, subject to allocation and
25 payment of funds as provided for in subdivision (b) of Section
26 33670 of the Health and Safety Code, and modified by any
27 adjustments made pursuant to Section 96.51, 99, or 99.02, as
28 follows:

29 (a) For each tax rate area, the auditor shall determine an amount
30 of property tax revenue by multiplying the value of the change in
31 taxable assessed value from the equalized assessment roll for the
32 prior fiscal year to the equalized assessment roll for the current
33 fiscal year by a tax rate of four dollars (\$4) per one hundred dollars
34 (\$100) of assessed value. When computing the change in taxable
35 assessed value between the 1980–81 fiscal year and the 1981–82
36 fiscal year, the assessed values for the 1980–81 fiscal year shall be
37 multiplied by four. Starting with the 1981–82 fiscal year, the tax
38 rate used in this calculation shall be one dollar (\$1) per one
39 hundred dollars (\$100) of full value.

(b) Each amount determined pursuant to subdivision (a) shall be divided by the total of all those amounts computed for all tax rate areas within the county.

(c) The difference between the total amount of property tax revenue for the county and the sum of the amounts allocated pursuant to subdivisions (a) and (b) of Section 96 or subdivision (a) of Section 96.1 shall be computed.

(d) The amount determined pursuant to subdivision (c) shall be multiplied by the quotients determined pursuant to subdivision (b) to derive, for each tax rate area, the amount of property tax revenue attributable to changes in assessed valuation.

(e) Except as provided in paragraph (4) of subdivision (b) of former Section 97.3, as that section read on January 1, 1994, in the 1984–85 fiscal year only, in subdivision (d) of former Section 97.32, as that section read on January 1, 1994, in the 1985–86 fiscal year only, and in paragraph (4) of subdivision (b) of former Sections 97.35, 97.37, and 97.38 in the 1989–90 fiscal year only, the amount of property tax revenue determined pursuant to subdivision (d) shall be allocated to the jurisdictions in the tax rate area in the same proportion that the total property tax revenue determined pursuant to subdivision (d) for the prior year was allocated to all those jurisdictions in the tax rate area except that those proportions within each tax rate area may be adjusted for affected agencies pursuant to the provisions of Section 99 or 99.02.

(f) Any agency that has not filed a map of its boundaries by January 1, in compliance with Chapter 8 (commencing with Section 54900) of Part 1 of Division 2 of Title 5 of the Government Code, shall not receive any allocation pursuant to this section for the following fiscal year.

(g) For purposes of the calculations made pursuant to this section or its predecessor for the 1993–94 and 1998–99 fiscal years, the amount of property tax revenue allocated to the county, a city, a special district, a school district, community college district, or an Educational Reserve Augmentation Fund in the prior fiscal year shall be that amount as determined pursuant to Section 96.1, as modified or as provided in Article 3 (commencing with Section 97).

SEC. 4. Section 96.51 is added to the Revenue and Taxation Code, to read:

1 96.51. (a) For each qualified fiscal year, subject to allocation
2 and payment of funds as provided for in subdivision (b) of Section
3 33670 of the Health and Safety Code and any modification made
4 in accordance with Article 5 (commencing with Section 99) or
5 subdivision (b) of this section, property tax revenue shall be
6 allocated in a qualified county as follows:

7 (1) Fifty percent of the total amount of property tax revenue
8 collected in the county in the qualified fiscal year shall be allocated
9 among school entities in the qualified county in the same
10 percentage shares as the total amount of property tax revenue that
11 would be allocated among those school entities if this section did
12 not apply.

13 (2) From the remaining balance of the total amount of property
14 tax revenue collected in the county in the qualified fiscal year, the
15 auditor shall do all of the following:

16 (A) Set aside in the county treasury an amount equal to 20
17 percent of the amount required to be reimbursed by the state
18 pursuant to subdivision (b). This amount shall be allocated
19 pursuant to subdivision (c).

20 (B) Allocate to each local agency the sum of the following
21 amounts:

22 (i) An amount of property tax revenue that is equal to the
23 amount of property tax revenue received by the local agency in the
24 prior fiscal year.

25 (ii) A percentage share of that portion of the annual tax
26 increment, other than the designated increment portion, that equals
27 that agency's percentage share of the total amount of property tax
28 revenue that would be allocated among local agencies in the
29 county if this section did not apply.

30 (3) The designated increment portion shall be allocated as
31 required by either an operative agreement or an allocation board
32 determination for the county that has been entered into, or made,
33 pursuant to Article 4.2 (commencing with Section 53738) of
34 Chapter 4 of Part 1 of Division 2 of the Government Code.

35 (b) Each reduction, resulting from the implementation of
36 paragraph (1) of subdivision (a), in the amount of property tax
37 revenue that is allocated to school entities shall be reimbursed by
38 the state pursuant to Sections 2558 and 42238 of the Education
39 Code, or any successor to those provisions.



1 (c) The auditor of a qualified county shall allocate the amount
2 specified in subparagraph (A) of paragraph (2) of subdivision (a)
3 in the following manner:

4 (1) In a county in which there are no cities, the county shall
5 receive that amount which shall, within five years of the receipt of
6 the moneys, be used exclusively by the county for the activities
7 specified, with respect to redevelopment agencies, in subdivision
8 (e) of Section 33334.2 of the Health and Safety Code to implement
9 the affordable housing portion of the housing element of the
10 general plan of the county.

11 (2) In all other counties, the county and each city in the county
12 shall receive a percentage share that corresponds to the share of the
13 obligation required of the county and each city in the county to
14 meet the county's regional housing needs, as determined by the
15 county's Regional Housing Needs Assessment as conducted by the
16 Department of Housing and Community Development pursuant to
17 Section 65584 of the Government Code.

18 (3) Moneys received pursuant to this subdivision shall, within
19 five years of the receipt of the moneys, be used exclusively by the
20 county or city for the activities specified, with respect to
21 redevelopment agencies, in subdivision (e) of Section 33334.2 of
22 the Health and Safety Code, to implement the affordable housing
23 portion of the housing element of the general plan of the county
24 and each city in that county.

25 (d) (1) As part of the review required by Section 65588 of the
26 Government Code, a qualified county and any city in a qualified
27 county that received moneys pursuant to subdivision (c) shall
28 make a finding, by written resolution approved by a majority of the
29 governing body of the county or city, that moneys allocated to
30 counties and cities pursuant to subdivision (c) were used by those
31 counties and cities for the purposes and within the time period
32 specified in that subdivision.

33 (2) If the qualified county and the cities specified in paragraph
34 (1) do not make the finding required by that paragraph, then the
35 qualified county shall again apply to the Governor, as specified in
36 Section 53738.1 of the Government Code, in order to participate
37 in the negotiations described in that section and to allocate
38 property tax revenues as specified in this section. Until the
39 Governor approves the additional application described in the



preceding sentence, property tax revenue shall be allocated in that county as otherwise required by law.

(e) For purposes of this section:

(1) “Designated increment portion” means that portion of the annual tax increment that is in excess of 2 percent of the sum of the amounts allocated pursuant to subdivision (a) of Section 96.1.

(2) “Qualified county” has the same meaning as specified in Section 53738.1 of the Government Code.

(3) “Qualified fiscal year” has the same meaning as specified in Section 53738.1 of the Government Code.

